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Docket No. 740145-180

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	RESPONSE UNDER 37 CFR 1.116
	:	EXPEDITED PROCEDURE
Takeshi MINOBE et al.)	EXAMINING GROUP 2828
	:	
Application No.: 09/761,831)	Examiner: Dung T. Nguyen
	:	
Filed: January 18, 2001)	
	:	
For: CROSS-FLOW FAN FOR DISCHARGE)	
EXCITED GAS LASER	:	

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office: Fax No. (703) 872-9306 on April 15, 2004.


K.M. McManus

REQUEST FOR RECONSIDERATION

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following is presented in response to the Office Action mailed December 16, 2003, in connection with the above-captioned patent application.

REMARKS

The Examiner is thanked for his courteous and open-minded discussion of the present application at a personal interview conducted on April 13, 2004. Further to those discussions, the Examiner is requested to reconsider and withdraw his outstanding rejection of all claims for the following reasons.

Claims 1-4 stand rejected under 35 U.S.C. § 102 based on the disclosure of the Sarkar et al. patent. However, as pointed out at the interview, Sarkar et al. do not provide any basis for the Examiner's conclusion that a shaft extends through the center of the fan from outside one end of the blades to outside the other end of the fan blades, and to the contrary, there is clear evidence to the contrary.

Firstly, in addition to the Akins et al. U.S. Patent No. 5,023,884, a copy of which was previously provided and is referenced by Sarkar et al. as the type of fan that is improved by their disclosed use of magnetic bearings, at the interview, the Examiner was shown several other patents owned by the assignee of the Sarkar et al. patent which make it clear that a fan of the Sarkar et al. type does not have its fan shaft extend through the center of the fan but rather is comprised of a pair of shaft structures attached at each end of the fan for rotatably driving and supporting the fan blades. At the interview, the Examiner recognized that there is no express disclosure of the claimed feature in Sarkar et al and that the patents shown to him might suggest otherwise. In response, he pointed out that statement that "each end of shaft 130" is supported by bearings (col. 2, lines 63-65) and that "both ends of the fan shaft 130 are sealed by sealing members 136 and 36" (col. 3, lines 21-22) suggest that a single shaft runs from the bearings and seals at one side of the fan to the bearings and seals at the opposite end of the fan.

However, it was pointed out to the Examiner, that such comments did not mean that a single one-piece shaft was identified by numeral 130 as reflected by Sarkar et al.'s use of the single reference numeral 26 for a pair of separate bearings at each of opposite sides of the fan. Furthermore, the Oliver et al. patent 6,026,103 (copy attached and which, like the Sarkar et al. patent, incorporates by reference the Akins et al. patent) of the same assignee clearly refutes the Examiner's assumption that the reference to a shaft quoted above means that the shaft is a single rod passes through the center of the fan from one side to the other. In this regard, the Examiner's attention is directed to the last full paragraph of column 2 of the

Oliver et al. patent where it is stated that "shaft 201" consists "of shaft structures 201A and 201B" that are disposed at respective ends of the fan blades, but do not extend through the fan. There simply is no basis for concluding that Sarkar et al.' fan shaft is any different from that of the Oliver et al. patent in which the shaft is formed of a pair of separate shaft structures attached at each end of the fan.

Accordingly, it is submitted that the fan of the Sarkar et al. patent does not show or describe the fan shaft as passing through the body of the fan and that those skilled in the art familiar with this technology, especially those review the other patents owned by the owner of the Sarkar et al. based on the references contained in the specification to their invention being directed to applying magnetic bearings to such fans, would recognize that the fans shaft of such a fan would have been formed of separate fan structures mounted to each end of the fan blades as in the Oliver et al. patent and other patents of this company, and of other companies.

Likewise, the Examiner's reliance on Sarkar et al. for rejecting of claims 2-4 is also misplaced. At the interview, it was pointed out that claim 2 is directed to use of a hollow shaft, such as that shown in Fig. 4. The use of such a hollow shaft is not treated in the Examiner's final rejection and given the lack of disclosure of a shaft extending through the center of the fan of Sarkar et al., it is not understood how the feature of claim 2 can be treated as obvious. If the rejection of claim 2 is to be maintained, the Examiner is requested to explain why it would be obvious to use a hollow fan shaft instead of a solid one based on the disclosure of the Sarkar et al. patent.

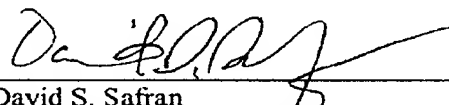
Furthermore, applicants repeat there position that the Examiner's reliance upon the drawings of the Sarkar et al. patent to meet the claimed d/D ration is well recognized to be legally impermissible to support a rejection without some factual basis for concluding that one skilled in the art would draw the conclusion that the claimed relationship was being taught by the patent because patent drawings are not to scale, the Examiner's attention again being directed to, for example, *In re Nash*, 109 USPQ 36,38 (CCPA). Moreover, for the Examiner to merely dismiss the ratio as has been done when it is disclosed as having particular significance is also improper. Accordingly, if this rejection is maintained, the Examiner is requested to explain his basis for ignoring the case law on the use of drawings to meet dimensional relationships.

For all of the above reasons, reconsideration and withdrawal of the rejection under § 102 based on the Sarkar et al. patent are in order and are now requested.

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise, which could be eliminated through discussions with applicant's representative, then the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

Lastly, it is noted that a separate Extension of Time Petition accompanies this response along with authorization of payment of the requisite extension of time fee. However, should that petition become separated from this Amendment, then this Amendment should be construed as containing such a petition and the required payment applied to Deposit Account No. 19-2380 (740145-180).

Respectfully submitted,

By: 
David S. Safran
Registration No. 27,997

NIXON PEABODY LLP
401 9th Street, N.W., Suite 900
Washington, D.C. 20004-2128

Telephone: (703) 827-8094

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